

EXHIBIT “H”

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
 3 CIVIL ACTION NO. 2:15-cv-06145-AB

4 - - -

5 CUSTOMERS BANK :STENOGRAPHIC TRANSCRIPT
 6 Plaintiff :OF THE DEPOSITION OF:
 7 :
 8 vs. : MICHAEL FUOCO
 9 :
 10 LIFESTYLE HEALTHCARE :
 11 GROUP, INC. :
 12 Defendant :

13 TAKEN BEFORE: Kathleen S. Bowe, a
 14 Registered Professional Reporter, Certified Court
 15 Reporter and Notary Public, License No. 1312, at
 16 the law offices of Saldutti Law Group, 800 North
 17 Kings Highway, Suite 300, Cherry Hill, New
 18 Jersey, on Wednesday, January 27, 2016,
 19 commencing at 3:15 p.m., in the above-entitled
 20 cause of action.

21 -----
 22 **KATHY BOWE COURT REPORTERS**

23 * Certified Court Reporters *
 24 * Registered Professional Reporters *
 240 West 22nd Street
 Ship Bottom, New Jersey 08008-4302
 [609] 513-0196

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<p>1 APPEARANCES:</p> <p>2</p> <p>3 SALDUTTI LAW GROUP</p> <p>4 BY: ROBERT SALDUTTI, ESQ.</p> <p>5 800 North Kings Highway, Suite 300</p> <p>6 Cherry Hill, New Jersey 08034</p> <p>7 Counsel for Plaintiff</p> <p>8 ALSO PRESENT:</p> <p>9 MICHAEL FUOCO</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 KATHY BOWE COURT REPORTERS</p>	<p>1 - - -</p> <p>2 MICHAEL FUOCO, sworn.</p> <p>3 - - -</p> <p>4 BY MR. SALDUTTI:</p> <p>5 Q. Good afternoon, Mr. Fuoco. My name is</p> <p>6 Robert Saldutti. We've met before. I represent</p> <p>7 Customers Bank, who has brought a lawsuit against</p> <p>8 various individuals, including Elizabeth</p> <p>9 Halbreiner, as well as Fred Rappaport and some</p> <p>10 other individuals.</p> <p>11 And this is kind of a supplement to</p> <p>12 your last testimony. I've shown you a document</p> <p>13 that was dated -- which is an E-mail dated</p> <p>14 Thursday, January 1st, 2015.</p> <p>15 Did you have an opportunity to</p> <p>16 review that E-mail?</p> <p>17 A. Yes, I did.</p> <p>18 Q. In that document, which I'm showing to</p> <p>19 you again, it says, "we will need to go over</p> <p>20 things on Friday so I can get the large loan</p> <p>21 extended. Just an FYI - there will be fees</p> <p>22 associated with extending it - attorney and bank</p> <p>23 fee plus I still have not been paid the 45,000</p> <p>24 from the last extension. We will discuss.</p> <p>KATHY BOWE COURT REPORTERS</p>
<p>1 INDEX</p> <p>2 - - -</p> <p>3 WITNESS EXAMINATION PAGE NO.</p> <p>4 MICHAEL FUOCO</p> <p>5 By Mr. Saldutti 4</p> <p>6</p> <p>7</p> <p>8</p> <p>9 EXHIBITS</p> <p>10</p> <p>11 EXHIBIT NO. DESCRIPTION PAGE MKD.</p> <p>12 Fuoco-1 E-mail dated 1/1/15 9</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 KATHY BOWE COURT REPORTERS</p>	<p>1 Bonnie."</p> <p>2 Is there any doubt in your mind</p> <p>3 that Bonnie was getting a 45,000 dollar payment</p> <p>4 from Fred Rappaport?</p> <p>5 A. No.</p> <p>6 Q. Any doubt that this was outside the</p> <p>7 normal realm?</p> <p>8 A. In my opinion, yes.</p> <p>9 Q. No doubt that she was getting a kickback</p> <p>10 for 45,000 dollars in this loan transaction?</p> <p>11 A. That E-mail would lead you to believe</p> <p>12 that, yeah.</p> <p>13 Q. Okay. Off the record.</p> <p>14 (Discussion off the record.)</p> <p>15 BY MR. SALDUTTI:</p> <p>16 Q. Mr. Fuoco, did you have conversation</p> <p>17 with Mr. Rappaport about Bonnie receiving payment</p> <p>18 and having been taken care of on more than one</p> <p>19 occasion?</p> <p>20 A. Yes.</p> <p>21 Q. What specifically did Mr. Rappaport tell</p> <p>22 you?</p> <p>23 A. There were a couple of occasions,</p> <p>24 shortly after the bank -- excuse me -- the</p> <p>KATHY BOWE COURT REPORTERS</p>

1 **standby letter of credit showed up and the bank**
2 **accepted it, and I said to Fred, is there**
3 **anything we need to do in terms of recognizing**
4 **Bonnie for helping us. He said no, I've taken**
5 **care of Bonnie, or he said she's been taken care**
6 **of.**
7 **Q.** And he said that to you on more than one
8 occasion?
9 **A. Yes, on more than one occasion. Because**
10 **I felt a sense that -- because she was very**
11 **helpful and went over and above the normal thing**
12 **I've seen with bankers in terms of their**
13 **interactions with clients, I just said to him**
14 **she's really done a yeoman job in helping us. I**
15 **said is there anything that we can do. And he**
16 **kept saying no, she's been taken care of so...**
17 MR. SALDUTTI: Off the record.
18 (Discussion off the record.)
19 BY MR. SALDUTTI:
20 **Q.** Mr. Fuoco, did you have an understanding
21 what occurred to the Popky mansion or large house
22 in Chestnut Hill?
23 **A. Yes.**
24 **Q.** Did you have an opportunity to be in the
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1 **A. Yes.**
2 **Q.** Is it your understanding she did that to
3 avoid creditor claims and the financial problems
4 Lifestyle was having?
5 **A. Given the circumstances, the answer**
6 **would be yes.**
7 **Q.** And she works for a Federal Judge now?
8 **A. I believe she did at one time. I'm not**
9 **sure when that terminated or if she still is**
10 **doing that or not. I really don't know. Yeah.**
11 MR. SALDUTTI: Off the record.
12 (Discussion off the record.)
13 BY MR. SALDUTTI:
14 **Q.** Mr. Fuoco, our investigation indicated
15 that obviously the Customers loan was for nine
16 million dollars, there was a subsequent Kennedy
17 financing loan for three million dollars after
18 the nine million Customers.
19 In your estimation, obviously, that
20 impaired Customers' position. What would your
21 opinion be as to why Bonnie, Elizabeth Halbreiner
22 would have taken part in that transaction?
23 **A. The inference that you would draw from**
24 **that is that she's getting paid by him to help**
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1 presence of his daughter and Dr. Popky's
2 daughters?
3 **A. Yes.**
4 **Q.** Was it your understanding the house was
5 placed in at the suggestion of the daughters in
6 order to avoid the financial problems that
7 Lifestyle was having?
8 **A. Yes.**
9 MR. SALDUTTI: Off the record.
10 (Discussion off the record.)
11 BY MR. SALDUTTI:
12 **Q.** Mr. Fuoco, were you aware that Dr.
13 Popky's daughter had a law degree?
14 **A. Yes.**
15 **Q.** And actually had gone to Villanova Law
16 School?
17 **A. Yes.**
18 **Q.** Was it your understanding she was
19 legally trained?
20 **A. Yes.**
21 **Q.** And she was the one that suggested or
22 was the impetus to transfer that house in
23 Chestnut Hill, Pennsylvania into the family
24 trust?

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1 **him secure the second loan.**
2 **Q.** Fred Rappaport?
3 **A. Fred Rappaport. Because I can't see any**
4 **other reason why she would help him secure the**
5 **loan for no other reason. Because that would**
6 **then put -- I was just surprised that the bank**
7 **didn't put a prohibition on this loan that you**
8 **couldn't put a second on the property. I just**
9 **never understood the logistics of how --**
10 **Q.** Bonnie never got -- are you aware that
11 Bonnie never got a mortgage on the property?
12 **A. I was flabbergasted by the fact that she**
13 **never liened the property, and just liened 100**
14 **percent against the bank guarantee. That's very**
15 **unusual not to lien the property and leave that**
16 **free and clear.**
17 MR. SALDUTTI: Thank you.
18 (Fuoco-1, E-mail dated 1/1/15,
19 marked for identification.)
20 (Whereupon the witness was excused
21 and the deposition concluded at 3:35 p.m.)
22
23
24

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C E R T I F I C A T E

1 STATE OF NEW JERSEY :

2 : SS.

3 COUNTY OF BURLINGTON :

4 I, Kathleen S. Bowe, a Registered
5 Professional Reporter, Certified Court Reporter
6 and Notary Public in the State of New Jersey, do
7 hereby certify that the foregoing deposition of
8 MICHAEL FUOCO, was taken at the law offices of
9 Saldutti Law Group, 800 N. Kings Highway, Suite
10 300, Cherry Hill, NJ, on Wednesday, January 27,
11 2016; that said witness was duly sworn before the
12 commencement of their testimony; that the
13 testimony of said witness was stenographically
14 taken by myself and reduced to print by the use
15 of computer-aided transcription; that the
16 foregoing is a true and correct transcription of
17 the testimony; that I am not related to or
18 employed by any of the parties, or their
19 attorneys or agents, or interested directly or
20 indirectly in the matter in controversy either as
21 counsel, attorney, agent or otherwise.
22

23

24 Kathleen S. Bowe, RPR, CCR
License No. 1312 - Notary Public
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